

February 20, 2003

PUBLIC UTILITIES COMMISSION,
Rulemaking Standards for Billing, Credit and Collection,
Termination of Service, and Customer Information
for Eligible, Non-Eligible, and Interexchange
Telecommunications Carriers (Chapters 290, 291
and 292)

ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order we, deny Verizon's request for waivers of Chapters 290 and 292 relating to Verizon's bill format.

II. BACKGROUND

On December 24, 2002, Verizon filed a Petition for Waiver of Chapters 290 and 292 of the Commission's Rules as they relate to the format of Verizon's customer bills. Prior to the filing of the Petition, Verizon and Commission Staff had conducted lengthy discussions of the bill format issues. These discussions began during the summer of 2002 and included a face-to-face meeting with Commissioners, Staff, and Verizon and numerous conference calls with Staff and Verizon personnel.

On several occasions, Staff advised Verizon that it did not believe Verizon's bill conformed to the new rules and that Verizon would need to seek a waiver from the Commission. In particular, after reviewing a draft bill submitted by Verizon in September, Staff noted the following problems: the placement of certain surcharges on the bill and whether they would be considered part of basic service; the failure to group all itemized charges of a particular type (i.e. toll or optional) into separate sections of the bill; and the commingling of both toll and optional service charges under the billing categories of "Verizon Calls" and "Optional Services."

Verizon disagreed with Staff's position and claimed that a waiver of the rules was not necessary. Ultimately, Staff and Verizon could not agree on the specific requirements of the rules and Verizon filed its request for a waiver on December 24, 2002, to obtain a Commission decision on the matter. On December 27, 2002, the Request was put out for comment by interested parties. The only party to file comments was the Office of the Public Advocate (OPA). The OPA's comments supported the Staff's interpretation of the new Rules and urged the Commission to deny Verizon's Petition.

III. DECISION

We have reviewed Verizon's Petition and find that we cannot grant the requested waiver of Chapters 290 and 292. We strongly encourage Verizon to begin an immediate dialogue with Staff so that this matter can be resolved as quickly as possible

and Verizon's bills brought into compliance with our Rules. Specifically, we set a deadline of 30 days from this Order for Verizon to either file a conforming bill or Waiver Request that addresses the problems described below.

First, we agree with Verizon that our Rules do not contain an explicit requirement that basic, toll, and optional services be separately grouped on the bill. However, we find the bill proposed by Verizon does not conform to the requirements of Chapter 290, when read in conjunction with Chapter 292 and the Federal Communication Commission's (FCC) Truth-in Billing rules, which are specifically incorporated into our Rules.¹

The FCC's rules require that the presentation of charges on a telephone bill be:

sufficiently clear....that customers can accurately assess that the services for which they are billed correspond to those that they have requested and received, and the costs assessed for those services conform to their understanding of the price charged.

64 C.F.R. § 2401(b). We interpret this section to require a bill to allow customers to readily calculate the costs associated with a particular type of service as well as readily identify the types of services being provided.

Moreover, we are not persuaded that the public interest would be served by granting the waiver requested by Verizon. The bill proposed by Verizon is confusing and does not allow a customer to readily identify the type or cost of service being provided. Toll charges are intermingled under the headings "Verizon Calls" and "Optional Services." These headings are intended to reflect usage based calls (Verizon Calls) and non-basic recurring charges (Optional Services).² Services that would appear to be optional, such as directory assistance, are included in the Verizon Calls section because they are not recurring charges. Services that would appear to be toll, such as the monthly fee for the Pine Tree toll plan, are included under the optional heading because they recur each month.

Verizon claims that customers not only readily understand the headings and why the bill is organized this way, but that customers prefer their bill to be organized in this fashion. While it may be true that Verizon does not get many complaints about bill format, this may be because customers do not believe they can effectuate a change in bill format and not because they affirmatively prefer the format.

We do not wish to micro-manage Verizon's business. However, we must enforce the rules we have recently adopted. One of the main purposes of the new rules is to

¹Chapter 290 § 12 (F) and Chapter 292 § 10(B).

² We fail to see how the headings reflect the distinction between usage-based and fixed recurring charges. Indeed, classifying a recurring toll charge under "Optional Services" does not seem logical, in that usage based charges are more "optional" than fixed recurring charges as the customer has more control over whether he incurs them.

support the competitive environment in Maine by ensuring that customers can compare prices for the services they are receiving and easily switch providers if they find a better deal. If we were to grant Verizon's Petition, Verizon customers would be hampered in their ability to accurately assess the costs of the various services being provided by Verizon. Verizon must find a way to organize its bills so that the charges associated with particular types of services are grouped together or labeled in such a way that the total amount charged for the service is readily identifiable.

There is another reason why we decline to grant the waiver. There are several surcharges and credits that have been misplaced. First, the Federal Universal Service Fund credits must be put with the basic charges and not with toll or optional. Maine receives these funds to help defer the cost of providing basic service to Maine consumers. The full amount of the credit should be applied against the basic service charges only. Second, with regard to surcharges, Verizon must ensure that surcharges assessed on amounts customers have not paid are not included in the basic charges balance for which non-payment will result in disconnection. While we might have some flexibility in the way the charges are displayed on the bill, we cannot allow a customer to be disconnected for non-payment of a surcharge which is based on amounts not paid to Verizon. We encourage Verizon to work with our Staff to resolve this issue within 30 days of the date of this Order.

IV. ORDER

For the reasons explained above, we deny Verizon's Petition for Waiver and order Verizon to work with our Staff to bring Verizon's bills into compliance with Chapters 290 and 292 within 30 days of the date of this Order.

Accordingly, it is

O R D E R E D

Dated at Augusta, Maine, this 20th day of February, 2003.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.

